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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,726	07/01/2003	Robert Bradley Cook	621.007	5723
29166	7590	09/01/2005	EXAMINER	
DOMINGUE & WADDELL, PLC P.O. Box 3405 LAFAYETTE, LA 70502			SMITH, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3672	
DATE MAILED: 09/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,726

Applicant(s)

COOK ET AL.

Examiner

Matthew J. Smith

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20-27, 29-34, 37-52 and 54-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34, 37-40, 46-51, 55 and 56 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 8, 9, 17, 22, 24, 27, 30, 32, 41 and 52 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 7, 10-16, 20, 21, 23, 25, 26, 29, 31, 33, 42-45 and 54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1Jul03</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, 24, 27, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by McCullough et al. (3314479).

McCullough et al. disclose a method of expanding an anchoring device 10 within a casing C, the anchoring device comprising: an outer tubular member 10 having a series of slots 14, the slots being arranged about the exterior of the outer tubular member in a spiral pattern and offset from the longitudinal axis of the outer tubular member; an inner cylindrical member 45 disposed within the outer tubular member; the method comprising: lowering the anchoring device to the desired level; applying a first force to the inner cylindrical member in a first direction in order to subject the inner tubular member to an upward force (col. 4 , line 55); applying a second force to the outer tubular member in a second direction in order to subject the outer tubular member to a downward force (col. 4, lines 54-55); expanding the outer tubular member along the slots; engaging the outer tubular member against the inner wall of the casing; outer setting sleeve 17 connected to the outer tubular member; a mandrel 46 being connected to the inner cylindrical member; a chamber 49 positioned between the outer setting sleeve and the mandrel; and wherein the step of applying the first force and the second force comprises: applying a pressure to the chamber; moving the setting sleeve downward in response to the hydraulic pressure; and a plug device 13 so that a flow stream from the well bore is prevented from flowing through the down hole device.

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Claims 41 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Retz (4501327).

Retz discloses method of setting a plug within a casing, the plug comprising: a first anchoring device 38 operatively associated with a second anchoring device 52, and wherein the second anchoring device comprises: an outer tubular member 54 having a series of spiral slots arranged about the exterior of the outer tubular member, the outer tubular member being attached to the first anchoring device, via member 42; an inner member 42 disposed within the outer tubular member; the method comprising: lowering the plug to the desired level; setting the first anchoring device at the desired level; moving the outer tubular member in a first direction in order to subject the outer tubular member to a downward force (col. 5, lines 40-42); expanding the outer tubular member along the slots; engaging the outer diameter of the outer tubular member against the inner wall of the casing; and setting tool means 38', 42, 56, 58, 60, 62, 64 for setting the first anchor member and the second anchor member within the well.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough et al.

McCullough et al disclose a down hole device comprising: an outer tubular member 15 having a series of spiral slots 14 therein, the slots being arranged about the exterior of the outer tubular member at an angle of inclination of between 25 degrees to 45 degrees (see figure 3B); an inner member 45 disposed within the outer tubular member; means for moving the outer tubular member in a first direction in order to subject the outer tubular member to a downward force (col. 4, lines 54-55) so that the outer tubular member is expanded along the slots; a setting tool having a setting sleeve 17 operatively associated with the outer tubular member and a mandrel 46 being connected to the inner member, the mandrel causes an upward force (col. 4, line 55) against the bottom end of the outer tubular member and the setting sleeve causes a downward force against the top end of the outer tubular member so that the outer tubular member expands; a chamber 49 positioned between the outer tubular member and the inner tubular member; and wherein a pressure entering the chamber causes an upward force to be applied to the mandrel and a downward force to be applied to the setting sleeve so that the outer tubular member expands, moving the outer tubular in a first direction in order to engage a shoulder or head 33 so that a downward force is applied to the outer tubular thereby expanding the outer tubular along the spiral slots but not the specified angle of inclination.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to note the slots are at the claimed angle of inclination in figure 3B and the suggestion in McCullough et al. that "The number of segments ... may vary widely, ..." (col. 5, lines 9-12) would have created a broad range of inclination angles.

Claims 17, 22, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough et al. in view of Retz.

McCullough et al disclose a down hole device comprising: an outer tubular member 15 having a series of spiral slots 14 therein, the slots being arranged about the exterior of the outer tubular member at an angle of inclination of between 25 degrees to 45 degrees (see figure 3B); an inner member 45 disposed within the outer tubular member; means for moving the outer tubular member in a first direction in order to subject the outer tubular member to a downward force (col. 4, lines 54-55) so that the outer tubular member is expanded along the slots; a setting tool having a setting sleeve 17 operatively associated with the outer tubular member and a mandrel 46 being connected to the inner member, the mandrel causes an upward force (col. 4, line 55) against the bottom end of the outer tubular member and the setting sleeve causes a downward force against the top end of the outer tubular member so that the outer tubular member expands; a chamber 49 positioned between the outer tubular member and the inner tubular member; and wherein a pressure entering the chamber causes an upward force to be applied to the mandrel and a downward force to be applied to the setting sleeve so that the outer tubular member expands, moving the outer tubular in a first direction in order to engage a shoulder or head 33 so that a downward force is applied to the outer tubular thereby expanding the outer tubular along the spiral slots but not a cover material member disposed about the outer tubular being an elastomeric member and the step of expanding the exterior of the outer tubular member to engaging the elastomeric member against the wall of the well bore.

Retz presents an elastomeric member 66 to seal against the wellbore wall.

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It would have been obvious to a person having ordinary skill in the art at the time the invention was made to add an elastomeric cover to the McCullough et al. device, as presented by Retz, in order to seal a stratum (Retz, col. 6, line 63-65).

Allowable Subject Matter

Claims 34, 37-40, 46-51, 55, and 56 are allowed.

Claims 3, 5, 7, 10-16, 20, 21, 23, 25, 26, 29, 31, 33, 42-45, and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see page 16, filed 1 July 2005, with respect to the rejection(s) of claim(s) 17 and 34 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of McCullough et al. While McCullough et al. do not disclose the claimed angles of inclination, the examiner contends the reference presents enough information for one of ordinary skill to find these angles without undue experimentation.

Noting a further review, the examiner apologizes for not advancing prosecution of this application.

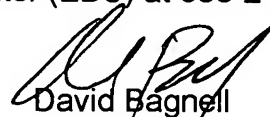
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is 571-272-7034.

The examiner can normally be reached on T-F, 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 or 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Bagnell
Supervisory Patent Examiner
Art Unit 3672

MJS *MJS*
26 August 2005